

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

THE UNITED STATES OF AMERICA, and

THE STATES OF CALIFORNIA, COLORADO,
CONNECTICUT, DELAWARE, FLORIDA,
GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA,
LOUISIANA, MARYLAND, MASSACHUSETTS,
MICHIGAN, MINNESOTA, MONTANA,
NEVADA, NEW HAMPSHIRE, NEW JERSEY,
NEW MEXICO, NEW YORK, NORTH
CAROLINA, OKLAHOMA, RHODE ISLAND,
TENNESSEE, TEXAS, VERMONT, VIRGINIA,
AND WASHINGTON; THE DISTRICT OF
COLUMBIA; THE COUNTY OF ALLEGHENY;
AND THE CITIES OF CHICAGO, NEW YORK,
AND PHILADELPHIA,

ex rel. JOEL STEVENS

Plaintiffs,

v.

ATRICURE INC., ST. HELENA HOSPITAL, AND
ADVENTIST HEALTH;

Defendants.

CASE NO. 1:22-cv-284-MRB

Judge Michael R. Barrett

ATRICURE'S MOTION TO DISMISS
THE FOURTH AMENDED COMPLAINT

Pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6), Defendant AtriCure, Inc. respectfully moves for an order dismissing Relator Joel Stevens' Fourth Amended Complaint ("Complaint") with prejudice. The deficiencies in the Complaint are numerous and irreparable. At the most fundamental level, the Complaint fails to allege a plausible claim under the False Claims Act because it does not plead with sufficient particularity a single claim for payment—much less a claim that was fraudulent or false. The Sixth Circuit has been clear: complaints

brought by relators like this one who lack personal knowledge of defendants' billing practices, and who cannot otherwise identify a representative false or fraudulent claim that was actually submitted to the Government for payment, must be dismissed.

A Memorandum in Support of this Motion is attached hereto.

Dated: August 17, 2022

Respectfully Submitted,

Russell S. Sayre

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2022, a copy of the foregoing was electronically filed with the Clerk of Court using the Court's electronic filing system. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system, and the parties may access the filing through the Court's system.

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